

Samuel Lasser (SBN – 252754)
samlasser@hotmail.com
LAW OFFICE OF SAMUEL LASSER
1934 Divisadero Street
San Francisco, California 94115
Tel: 415.994.9930
Fax: 415.776.8047

Jay Edelson (Admitted *Pro Hac Vice*)
jedelson@edelson.com
Rafey S. Balabanian (Admitted *Pro Hac Vice*)
rbalabanian@edelson.com
Benjamin H. Richman (Admitted *Pro Hac Vice*)
brichman@edelson.com
Christopher L. Dore (Admitted *Pro Hac Vice*)
cdore@edelson.com
EDELSON PC
350 North LaSalle Street, Suite 1300
Chicago, Illinois 60654
Tel: 312.589.6370
Fax: 312.589.6378

Attorneys for Plaintiff and the putative class

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

BRIAN GLAUSER, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

GROUPME, INC., a Delaware corporation,

Defendant.

Case No. 4:11-cv-02584-PJH

STATEMENT OF RECENT DECISION

1 Plaintiff Brian Glauser, pursuant to Civil Local Rule 7-3(d)(2), hereby submits the instant
2 statement of recent decision and states as follows:

3 In its reply brief in support of its pending motion for summary judgment (*see* dkt. 138 at
4 9), Defendant GroupMe, Inc. (“GroupMe”) cites to a recent decision in the case captioned *Sterk*
5 *v. Path, Inc.*, No. 13-cv-02330 (N.D. Ill.), where the Honorable Samuel Der-Yeghiayan denied
6 the defendant’s motion for summary judgment and held that a dialer “which makes calls from a
7 stored list without human intervention is comparable to the predictive dialers that have been
8 found by the FCC to constitute an ATDS” because “[i]t is the ultimate calling from the list by the
9 automated equipment that is the violation of the TCPA.” *Sterk v. Path, Inc.*, --- F. Supp. 2d ---,
10 2014 WL 2443785, at *4 (N.D. Ill. May 30, 2014) (the “*Sterk* Order”). In its briefing, GroupMe
11 also points out that, upon reassignment of the case, a new district judge granted the defendant’s
12 motion to certify the *Sterk* Order for interlocutory appeal to the Seventh Circuit Court of
13 Appeals. (Dkt. 138 at 9 (“Upon reassignment, however, a new judge certified the issue for
14 interlocutory appeal to the Seventh Circuit. The new judge reviewed the same interpretation of
15 ‘predictive dialer’ Plaintiff requests here and noted such a reading of the 2012 FCC Ruling ‘is
16 incomplete’”) (internal citation omitted).)

17 On December 22, 2014 and after full briefing by the parties, the Seventh Circuit Court of
18 Appeals denied the defendant’s petition for permission to appeal the *Sterk* Order. *See In re: Path,*
19 *Inc.*, No. 14-cv-8020, Dkt. 13 (7th Cir. Dec. 22, 2014). A true and accurate copy of the Seventh
20 Circuit’s order is attached hereto as Exhibit 1.

21 Respectfully Submitted,

22 **BRIAN GLAUSER**, individually and on behalf of
23 all others similarly situated,

24 Dated: December 23, 2014

25 By: /s/ Benjamin H. Richman
26 One of Plaintiff’s Attorneys
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28

1 Jay Edelson (Admitted *Pro Hac Vice*)
2 jedelson@edelson.com
3 Rafey S. Balabanian (Admitted *Pro Hac Vice*)
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